

## Laughing at the Gods

Any effort to understand how law works has to take seriously its main players – judges. Like any performance, judging should be evaluated by reference to those who are its best exponents. Not surprisingly, the debate about what makes a great judge is as heated and inconclusive as the debate about the purpose and nature of law itself. History shows that those who are generally considered to be candidates for a judicial hall of fame are game changers who oblige us to rethink what it is to be a good judge. So the best of judges must tread a thin line between modesty and hubris; they must be neither mere umpires nor demigods. The eight judges showcased in this book demonstrate that if the test of good judging is not about getting it right but about doing it well, then the measure of great judging is about setting new standards for what counts as judging well.

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Great Judges and How They  
Made the Common Law

**ALLAN C. HUTCHINSON**

Osgoode Hall Law School, York University



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*This book is dedicated to the memory of my great  
friend and collaborator Derek Morgan (1954–2011).*

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## Preface

This book is intended to be a loose companion to my earlier book, *Is Eating People Wrong? Great Legal Cases and How They Shaped the World* (2011). It takes a closer look at some of the main characters who have stood out among the judicial ranks and who have thereby helped to shape the world. It is not intended as a hymn of praise for these memorable figures or the judicial function generally. Instead, it examines the common law enterprise and seeks to identify what it is that makes some of its judicial practitioners leaders in their field. Whether the influence of these so-called great judges is considered good or bad remains a question for continuing debate. As such, this book is intended to open a conversation about some judges and their supposed greatness.

In researching and writing this book, I have relied extensively on the fine body of research that has developed over the years about these individuals and the law. I have done little original or primary research myself, and I have been

## Preface

as comprehensive as possible in listing those sources that I have relied upon at the end of the book. I am extremely grateful to those historians and commentators.

As usual, many people have played important parts in helping me to complete this book. I have benefited from a host of critics and colleagues, mostly friendly, who have shared their time and insights. In particular, I am grateful to Rosalie Abella, Jamie Cameron, Pam Marshall, Beverly Myhal, Marilyn Pilkington, Mark Tushnet, and especially Amanda Tyler for reading earlier drafts of chapters and for preventing me from making even more startling errors and omissions. Jeannie Thomas and Albie Sachs generously allowed me to use some private photographs. However, my greatest debt is to my research assistants – Cynthia Hill set the gold standard, Jessica Diab met it with style and substance, and Ian Langlois left his own personal mark of the highest quality all over the final product.

While completing this book, I lost my longtime friend Derek Morgan. We had some of the best fun that any academic collaborators could have. Our laughter, of course, was usually at each other's expense, but it was filled with respect and affection. Although he was one of life's great contrarians, he was also at heart a simple man who wanted to be loved and cherished. I will always treasure our times together – *Thank you, my boy!*

**Allan C. Hutchinson**  
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